

**Remarks/Arguments**

Reconsideration is hereby requested, as is a one month extension of time, within which to respond to the non-final Official Action. The Small Entity extension of time fee for one month is in amount of \$55.00 to be charged to Deposit Account No. 502557.

The Examiner has stated that Claim 1 not clear as to the scope of part d). However, as is evident from the present amendment, and supported by the specification (pages 9-10), nowhere in the specification is specific hardware identified that is capable of acquisition and formatting of data. Rather, as is common in the art, software is programmed to run using generic computer hardware to achieve the means in question, namely acquisition and formatting of data.

In regards to claim 1, the Examiner has further stated that Claim 1 is indefinite for several reasons. Specifically, claim 1 at subparagraph (f)(iii). As can be seen by the amendment, said means language clearly refers to the means specified in claim 1 at subparagraph (f)(ii) as identified in dependant claim 1 at subparagraph (f)(iii). Furthermore, the assertion that "rotation" is indefinite is refuted by the specification wherein at pages 23-25, rotation refers to the rotation of members of the set of qualified service providers. Rotation in computer parlance typically refers to the manipulation of a data structure such as a queue

or linked list. Rotate instructions move bit strings, sets of bit strings, or an operand treated as a bit string, to the right or left, with excess bits, sets of bits, or an operand treated as a bit string, reinserted into the bit string, at the opposite end. Therefore rotate instructions are circular, with the bits, or sets of bits shifted out one end returning on the other end. Rotate instructions can be to the left or right. Rotates can also employ an extend bit for multi-precision rotates. Similarly, the random function resolves algorithmic ties or deadlocks between providers on a basis of host ranking in lieu of utilization of a rotation function. Said random function selects at random a provider from the set of qualified service providers. (pages 10, 23-25).

In regards to the Examiner's rejection of Claim 3, the recitation of said f at subparagraph (ii) refers to "means for applying combinations of client and host-server specified criteria of provider rates service, geography, vehicle type, vehicle availability, personnel inclusive of languages spoken, insurance type held by service provider, and ranking by server-determined qualification, to said validated record" as stated.

In regards to the Examiner's rejection of Claim 7, the Examiner has stated that Claim 7 is not clear as to scope of part b). However, as is evident from the submitted amendment, and supported by the specification at pages 9-10, nowhere in the specification is specific hardware identified capable of acquisition and formatting of data. Rather, as in common in the art, software is

programmed to run using generic computer hardware to achieve the means in question, namely acquisition and formatting of data.

In regards to the Examiner's rejection of claim 8, the Examiner has stated that Claim 8 is not clear. Specifically, the Examiner states that said means 8 at paragraph (ii) does not have a clear reference. As can be seen by the amendment, said means language clearly refers to the means specified in claim 8 at paragraph (ii) as identified in dependant claim 8 at paragraph (iii). The recitation of said means 8 at paragraph (ii) refers to "means for applying to said validated record combinations of client and server specified criteria of provider rates, geography, vehicle type, vehicle availability, personnel inclusive of languages spoken, insurance type held by service provider, and ranking by server-determined qualification" as stated in dependent claim 8 at paragraph (ii).

The examiner has also rejected claims 1-11 under 35 U.S.C. 102(e) as being anticipated by Walker et al. (6,134,534). The examiner has stated that the "limitations directed to the system as being a 'ground transportation system' and the limitations directed to client criteria being vehicle type, vehicle availability, etc...this is considered to be non-functional descriptive material and does not serve as a limitation (*In re Gulack*, 217 USPQ 401 (CAFC 1983))" However, in Gulack, the court found that "there is no meaningful functional relationship between appellant's indicia and the claimed endless band." In the instant case, that is simply not true. There exists a clear and meaningful functional relationship between a "ground transportation system" and the "criteria of

provider rates, geographical data, vehicle type, vehicle availability, personnel inclusive of languages spoken, insurance type held by the service provider, and ranking by server-determined qualification." Namely, the ground transportation systems contemplated, such as privately chauffeured sedans, limousines, and passenger vans, provide for direct human interaction between the chauffeurs, drivers and the passengers. Such an interaction is lacking in other forms of mass transportations. Such an interaction allows for "on the fly" changes in destinations, such that the passengers may select alternate destinations based upon information gained from said drivers and chauffeurs. This interaction is well known in the ground transportation industry. Moreover, "the criteria of provide rates, geographical data, vehicle type, vehicle availability, personnel inclusive of languages spoken, insurance type held by the service provider, and ranking by server-determined qualification" are all applicable to ground transportation systems only. In distinction, the language that an airline pilot speaks has no bearing on a passenger's decision to choose a particular flight. Similarly, the vehicle type (whether it be a Corvair, Airbus, McDonnell Douglas/Boeing, Lockheed) as well as the various models of each commercial airplane, relative to an airline is also not a persuasive detail affecting a passenger's selection.

Moreover, the only selection criteria utilized in any way by Walker are and price and date. The claimed invention relates to the consumer's access to ground transportation reservation systems. Walker, in contrast to the applicant's application, relates to the airline and cruise price and itinerary selection criteria.

Although Walker discloses that each airline or cruise can disclose its own criteria for the CPO management system, as a practicality, the only additional useful criteria would be hypothetical selection criteria such as number of stopovers, what food is served on the flight or cruise, what entertainment is available on the flight or cruise, and what accommodations are available on the flight or cruise. These criteria relate to the quality of the flight or cruise experience, rather than information that could affect a travel destination. These are variables which could affect a consumer's choice of flights or cruises, however, they do not relate to a destination.

It should be noted that none of these hypothetical selection criteria are disclosed by Walker. In fact, the intent of Walker is to provide a solution to "pricing and inventory challenges" so that the price is maximized for each cruise or flight, while maintaining acceptable inventory levels thereby disposing of such excess capacity. Walker's aims are: to provide a:

- (1) system that permits a cruise operator to sell excess capacity when actual demand fails to meet forecasted demand;
- (2) buyer-driven system that permits a cruise operator to sell tickets to leisure travelers at a price set by the customer, typically below the cruise operator's published fare;
- (3) system that permits sellers to stimulate sales of excess inventory, without compromising the seller's published price structure; and

(4) system that permits sellers to capture and process consumer demand for each selling price of a given item, such as a given fare class on each cruise berth. Walker is therefore a revenue management tool for maximizing revenue from existing business. Walker is intended to accurately assess future consumer behavior, determine the most effective way to price and allocate inventory to reach and every future consumer, and serve as a decision-support resource for marketing and operational functions, including but not limited to: pricing, scheduling, product development, advertising, sales, distribution, human resource utilization and capacity planning.

Furthermore, there exists a clear and meaningful functional relationship between cruises and airline transportation systems, as disclosed by Walker and the criteria of provider price, and itinerary. In addition, the foregoing hypothetical selection criteria, number of stopovers, what food is served, and entertainment provided are functionally related to cruise and airline reservation systems. It is precisely these types of selection criteria, which affect a consumer's travel experience. In contrast, the ground transportation system is aimed at providing information to the consumer so that a travel destination can be selected. In this context, the ground transportation system allows consumers to make "on the fly" decisions about destinations, something clearly lacking in Walker. Furthermore, there exists a clear and meaningful functional relationship between a "ground transportation system" and the "criteria of provider rates, geographical data, vehicle type, vehicle availability, personnel inclusive of languages spoken,

insurance type held by the service provider, and ranking by server-determined qualification.

In regards to claim 2, Walker does not inherently disclose a graphical user interface (GUI). Personal computers predate the use of GUI's by several years. Prior to the widespread use of GUI's, personal computers typically used textual information. While some of these interfaces included some features of GUIs, such as menus, they are not graphics based. Such interfaces are sometimes called graphical character-based user interfaces to distinguish them from true GUIs. Walker does not disclose the type of user interface, and none can be assumed.

In regards to claim 3, the claim as amended recites more than a data structure. Claim 3 recites how said data structure is manipulated to accomplish the intended function. Specifically, Claim 3 recites "a database of client preference parameters for use by said... intelligent software agent comprising an algorithm for selecting a service provider for task execution of said validated record, said algorithm comprising...means for applying combinations of client and host-server specified criteria of provider rates service, geography, vehicle type, vehicle availability, personnel inclusive of languages spoken, insurance type held by service provider, and ranking by server-determined qualification, to said validated record."

In regards to Claim 4, the examiner has stated that it fails to recite anything further structurally to the system. However, as is evident from the amendment, the structure consists of "client preference parameters."

In regards to Claim 7, the examiner has stated that it fails to recite anything further structurally to the system. However, Claim 7 relates to a remote client computer inclusive of means for generation and transmitting reservation requests and related data therefrom. As is evident from the specification, the related data therefrom refers to the reservation data generated from "Reservation requests from both CRS systems and the Internet...acquired through a queue detect module which receives PRN and XML texts from a user interface to determine when a reservation request exists, whereupon the same is forwarded to a parsing module which effects full acquisition of the reservation request and, as well, originates a reservation transaction by passing the acquired reservation onto a reservation validation module." (page 8).

In regards to Claim 5, the examiner mistakenly states that Walker discloses a client computer 110, when in actuality Walker discloses "one or more customers or travel agents 110, hereinafter referred to as customer 110" (col. 5, lines 8-11). Nowhere does Walker disclose a "client computer" as stated by the examiner.

In regards to Claim 6, the examiner states column 9, lines 6-18 disclose the same limitations. However, as is evidenced by the amendment to claim 3,



the software agent provides means for applying combinations of client and host-server specified criteria of provider rates service, geography, vehicle type, vehicle availability, personnel inclusive of languages spoken, insurance type held by service provider, and ranking by server-determined qualification, to said validated record. Such a limitation is not found in Walker.

In regards to Claim 11, the examiner states that "Walker allows a client to input desired search criteria remotely from their computer that the software will use during search execution." However, in Walker the search criteria are of a different nature than the claimed invention. Specifically, and as stated more fully above, the claimed invention bases its search criterion on ground transportation systems. Said distinction demonstrates the meaningful functional relationship between ground transportation systems, and airline and cruise transportation systems. The criteria for each is distinct and meaningful only in the context of its own type of transportation systems.

Respectfully submitted,



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